

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

LASHUNDRA JACKSON,

Plaintiff,

v.

**STATE OF ALABAMA DEPARTMENT OF
TRANSPORTATION, JOE MCINNES, etc.,**

Defendants.

)
)
)
)
)
)
)
)
)
)
)

CASE NO. 2:07-cv-645-MEF

**DEFENDANTS REPLY TO PLAINTIFF'S RESPONSE IN OPPOSITION TO
DEFENDANT'S MOTION TO TRANSFER VENUE**

COME NOW Defendants, the State of Alabama Department of Transportation (hereinafter referred to as "ALDOT") and State Transportation Director D.J. "Joe" McInnes, and reply as follows to Plaintiff's Response in Opposition (Doc. No. 8) to Defendants' Motion to Transfer Venue (Doc. No. 2):

1. In its response to ALDOT's Motion to Transfer Venue, Plaintiff LaShundra Jackson directs this Court to Title VII's venue provision, which states "Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed...." However, 42 U.S.C. § 2000e-5(f)(3) also states that this cause could have been brought "in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged unlawful employment practice...." ALDOT avers that the United States District Court for the Southern District of Alabama in Mobile, Alabama, meets all of the venue criteria set out in § 2000e-5(f)(3).

2. "For the convenience of the parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have

been brought.” 28 U.S.C § 1404(a). The District Court in Mobile, Alabama, is the most convenient forum for all of the parties. Plaintiff alleges that the unlawful employment practices occurred in the Department’s Ninth Division Office in Mobile, Alabama. (Doc. No. 1.).

Plaintiff was employed by ALDOT’s Ninth Division office in Mobile, Alabama, which is located in the Southern District of Alabama. All of the events relevant to the issues in this cause occurred in Mobile, Alabama. *See* Affidavit of Ronnie F. Poiroux, attached hereto. Virtually all of the fact witnesses are located at ALDOT’s Ninth Division office in Mobile County, Alabama. *Id.* Specifically, these witnesses include all of those persons who supervised Plaintiff Jackson, the witnesses identified in her EEOC charge, and those persons who witnessed the events alleged in her EEOC charge. *Id.* The interests of justice are best served when a court considers “the forum in which the judicial resources could most efficiently be utilized and the place in which the trial would be most ‘easy, expeditious and inexpensive.’” *See Howell v. Tanner*, 650 F.2d 610, 616 (5th Cir. 1981); *see also, Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508, 67 S.Ct. 839, 843, 91 L.Ed. 1055, 1062 (1947). A trial in the United States District Court for the Middle District of Alabama would cause the Mobile witnesses to lose valuable work time and would also cause the State to incur additional, unnecessary expenses. *See* Affidavit of Ronnie Poiroux. Plaintiff Jackson resides in Mobile County, Alabama. Allowing the trial of this cause to take place in Montgomery, Alabama, would increase costs to Plaintiff that might be passed on to the State if Plaintiff were to prevail.

3. Neither counsel for Plaintiff nor counsel for Defendants would be inconvenienced by transferring venue inasmuch as Plaintiff’s counsel is located in Austin, Texas, and Defendants’ counsel are located in Montgomery, Alabama. Counsel for Defendants do not object to traveling to Mobile for a trial in this cause. Mobile, Alabama, is closer by land and air

to Austin, Texas. In addition, Mobile Regional Airport offers more daily flights (in particular, to Texas) than Montgomery Regional Airport. *See* airline schedules, attached hereto as “Exhibit 1.”

4. Virtually all evidence, including witnesses and documents, is located or available in Mobile, Alabama. Although ALDOT’s central office in Montgomery maintains a copy of Plaintiff’s personnel records, its Ninth Division office in Mobile, Alabama, is the original point of entry for these records, and these files are readily available in Mobile. *See* Affidavit of Ronnie F. Poiroux.

5. The individual Defendant, Director D.J. McInnes, is located in Montgomery, Alabama. However, Director McInnes only reviews the facts for a final determination on termination. He does not have personal, first-hand knowledge of the facts of this case and is rarely, if ever, called as a witness in Title VII actions.

WHEREFORE, the above premises considered, Defendants pray that this Honorable Court transfer venue from the United States District Court for the Middle District of Alabama to the United States District Court for the Southern District of Alabama.

RESPECTFULLY SUBMITTED
TROY KING
ATTORNEY GENERAL

s/ Jason A. Trippe
Jim R. Ippolito, Jr. (IPP001)
Assistant Attorney General
Chief Counsel

Andrew W. Redd (RED001)
Jason A. Trippe (TRI012)
Assistant Attorneys General
Assistant Counsel

ADDRESS OF COUNSEL:

State of Alabama Department of Transportation

1409 Coliseum Boulevard

Montgomery, Alabama 36110

Telephone: (334) 242-6350

Facsimile: (334) 264-4359

reda@dot.state.al.us

trippej@dot.state.al.us

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

LASHUNDRA JACKSON,

Plaintiff,

V.

**STATE OF ALABAMA DEPARTMENT OF
TRANSPORTATION, JOE MCINNES, *etc.*,**

Defendants.

)
)
)
)
)
)
)
)
)

CASE NO. 2:07-cv-645-MEF

CERTIFICATE OF SERVICE

I hereby certify that, on **August 23, 2007**, I electronically filed the foregoing with the Clerk of the Court using the CM/ECT system, which will send notification to the following:

Mr. Kell A. Simon, Esq.
Ross Melton, P.C.
1104 San Antonio Street
Austin, Texas 78701
ATTORNEY FOR PLAINTIFF

s/ Jason A. Trippe
Jason A. Trippe (TRI012)
Assistant Attorney General
Assistant Counsel

ADDRESS OF COUNSEL:

State of Alabama Department of Transportation
1409 Coliseum Boulevard
Montgomery, Alabama 36110
(334) 242-6350 (office)
(334) 264-4359 (facsimile)
redda@dot.state.al.us
trippej@dot.state.al.us

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

2007 AUG 23 A 9: 24

LASHUNDRA JACKSON,

Plaintiff,

v.

STATE OF ALABAMA DEPARTMENT
OF TRANSPORTATION, JOE MCINNES,
etc.,

Defendants.

CASE NO. 2:07-cv-645-MEF

STATE OF ALABAMA

COUNTY OF MOBILE

AFFIDAVIT OF RONALD F. POIROUX

Before me, the undersigned Notary Public, personally appeared **Ronald F. Poiroux**, who is known to me and who, being first duly sworn by me, deposes and states as follows:

“My name is Ronald F. Poiroux. I am a resident of Mobile County, Alabama, am over the age of 19 years, and am competent to testify as to the matters contained in this affidavit. I am the Division Engineer for the Alabama Department of Transportation’s Ninth Division office in Mobile, Alabama. I am responsible for the day-to-day administrative operations of ALDOT’s Ninth Division which includes Conecuh, Escambia, Baldwin and Mobile counties.

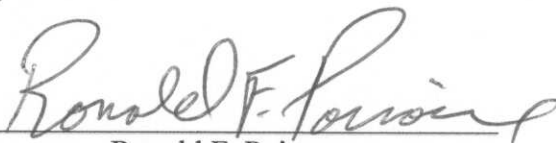
“Lashundra Jackson was employed by ALDOT’s Ninth Division Office in Mobile, Alabama.

“All witnesses listed in Ms. Jackson’s EEOC questionnaire are employed by ALDOT’s Ninth division office in Mobile, Alabama.

"All fact witnesses are employed by ALDOT's Ninth Division office in Mobile, Alabama. Ms. Jackson's immediate supervisor was Bret Paulk. Mr. Paulk is employed by ALDOT's Ninth Division, District One office in Mobile, Alabama. Mr. Paulk's immediate supervisor is Jay Palmer. Mr. Palmer is employed by ALDOT's Ninth Division, District One office in Mobile, Alabama. Other witnesses who worked closely with Ms. Jackson are Vince Calametti, Leon Malone, Austin Harville, Josh McElhenney, Jeannette Brown, Joey Fresolone and Chris Burdette. Each of these employees works in Mobile County, Alabama. Other witnesses, i.e. persons who worked with her on a daily basis who we believe to have knowledge of the claims, would be located in the greater Mobile, Alabama area.

"ALDOT's Ninth Division office in Mobile, Alabama does maintain the primary personnel file for all of its employees including Ms. Jackson. The Ninth Division office is the first point of entry for original personnel records for its employees. Personnel records for this office are readily available in Mobile.

"If this trial were held in Montgomery the State would incur the costs of travel, meals and hotel expenses for these witnesses. Whereas, if this trial were transferred, these witnesses could be "on-call" and could attend to their daily work activities until called upon to testify and the State would not incur additional travel expenses."


Ronald F. Poiroux

SWORN TO AND SUBSCRIBED before me on this 22 day of Aug., 2007.


Notary Public, State at Large

My Commission Expires: 12/10/07

MONTGOMERY REGIONAL AIRPORT FLIGHT SCHEDULES**ASA/Delta Connection****Montgomery (MGM) to/from Atlanta (ATL)****Departures****Arrivals**

Flt 4727	6:25 am	Flt 4121	8:56 am
Flt 4772	7:15 am	Flt 4122	11:10 am
Flt 4630	9:30 am	Flt 4890	1:05 pm
Flt 4084	11:30 am	Flt 4903	2:33 pm
Flt 4638	1:35 pm	Flt 4628	4:37 pm
Flt 4734	3:05 pm	Flt 4125	7:10 pm
Flt 4516	5:15 pm	Flt 4083	10:28 pm

Montgomery (MGM) to/from Cincinnati (CVG)**Departures****Arrivals**

Flt 4410	7:45 am	Flt 4863	8:05 pm
----------	---------	----------	---------

US Airways Express**Montgomery (MGM) to/from Charlotte (CLT)****Departures****Arrivals**

Flt 2344	6:10 am	Flt 2377	10:23 am
Flt 2377	11:00 am	Flt 2893	3:59 pm
Flt 2352	4:24 pm	Flt 2583	8:34 pm

Northwest Airlin**Montgomery (MGM) to/from Memphis (MEM)****Departures****Arrivals**

Flt 5712	6:40 am	Flt 5779	10:55 am
Flt 5949	11:45 am	Flt 5731	3:55 pm
Flt 5925	4:25 pm	Flt 5944	8:30 pm

Continental Express

Montgomery (MGM) to/from Houston (IAH)

Departures

Arrivals

Flt 2026	6:15 am	Flt 2924	5:07 pm
Flt 2466	5:32 pm	Flt 3104	9:02 pm

All flight schedules are subject to change without notice.

[Back to Airlines](#)

August 2007 Departures

Departing To	Airline	Flight	Time	Gate	Exceptions
Atlanta	Delta	4255	6:00 AM	1	
Charlotte	US Airways	2540	6:05 AM	6	
Dallas	American	3424	6:20 AM	5	
Memphis	Northwest	5933	6:25 AM	4	
Houston	Continental	3436	6:45 AM	7	Exc Sun
Houston	Continental	2433	6:45 AM	7	Sun Only
Atlanta	Delta	1544	7:45 AM	1	
Houston	Continental	2971	9:05 AM	7	Exc Sat
Atlanta	Delta	4776	9:25 AM	1	
Charlotte	US Airways	2539	11:10 AM	3	Exc Sun
Memphis	Northwest	5796	11:25 PM	4	
Atlanta	Delta	4296	11:57 AM	1	
Houston	Continental	2458	11:59 AM	7	
Dallas	American	3350	12:20 PM	5	
Charlotte	US Airways	2392	12:30 PM	6	Sun Only
Chicago	American	3927	1:55 PM	5	
Atlanta	Delta	4189	2:15 PM	1	
Houston	Continental	3407	2:25 PM	7	
Dallas	American	3820	3:25 PM	5	
Charlotte	US Airways	2492	4:00 PM	3	Sat Only
Houston	Continental	2367	4:20 PM	7	Exc Sat
Memphis	Northwest	5733	4:25 PM	4	
Atlanta	Delta	4094	4:58 PM	1	
Dallas	American	3588	5:50 PM	5	
Atlanta	Delta	4112	6:20 PM	1	
Charlotte	US Airways	2492	6:51 PM	3	Exc Sat
Houston	Continental	3414	6:55 PM	7	

August 2007 Arrivals

Arriving From	Airline	Flight	Time	Gate	Exceptions
Houston	Continental	3059	8:38 AM	7	Exc Sat
Atlanta	Delta	4277	9:00 AM	1	
Charlotte	US Airways	2539	10:40 AM	3	Exc Sun
Memphis	Northwest	5904	10:47 AM	4	
Atlanta	Delta	4682	11:27 AM	1	
Houston	Continental	3119	11:33 AM	7	
Dallas	American	3401	11:50 AM	5	
Charlotte	US Airways	2319	11:55 AM	3	Sun only
Chicago	American	3935	1:25 PM	5	
Atlanta	Delta	4927	1:49 PM	1	
Houston	Continental	3388	1:58 PM	7	
Dallas	American	3821	3:00 PM	5	
Charlotte	US Airways	2492	3:29 PM	3	Sat Only
Memphis	Northwest	5914	3:50 PM	4	
Houston	Continental	2084	3:53 PM	7	Exc Sat
Atlanta	Delta	4467	4:28 PM	1	
Dallas	American	3591	5:10 PM	5	
Atlanta	Delta	4311	5:55 PM	1	
Houston	Continental	3408	6:03 PM	7	
Charlotte	US Airways	2492	6:11 PM	3	Exc Sat
Atlanta	Delta	577	7:16 PM	1	
Dallas	American	3425	7:30 PM	5	
Charlotte	US Airways	2517	8:37 PM	3	Sat Only
Memphis	Northwest	5763	8:52 PM	4	
Houston	Continental	3400	8:55 PM	7	
Atlanta	Delta	4379	9:30 PM	1	
Charlotte	US Airways	2517	11:02 PM	3	Exc Sat